

MOTION INFORMATION STATEMENT

Docket Number(s): 15-3228(Con), 15-2801 (L), 15-2805 (Con)

Caption [use short title]

Motion for: Strike Appearance of Anthony S. Barkow of Jenner & Block ("J&B").

National Football League Management Council ("NFLMC")

v.

National Football League Players' Association ("NFLPA")

Set forth below precise, complete statement of relief sought:

I seek relief as Pro Se party for motion to strike appearance of J&B attorney Anthony S. Barkow, who sought to file an amicus brief on behalf of attorney Kenneth R. Feinberg on May 31, 2016, a filing nearly six months defectively late, evading Local and Fed. R.App.Pr., with alleged admittance date in controversy. Petition for panel rehearing/en banc review of Apr. 26, 2016 Order is pending.

RECEIVED
2016 JUN 22 PM 6:11
U.S. COURT OF APPEALS
SECOND CIRCUIT
NEW YORK, NY

MOVING PARTY: Michelle L. McGuirk, Appellant, Pro Se

☐ Plaintiff ☐ Defendant
☒ Appellant/Petitioner ☐ Appellee/Respondent

OPPOSING PARTY: NFLPA as Appellee; Proposed Amicus Curiae

MOVING ATTORNEY: Pro Se party

[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: Theodore Olson; Andrew S. Barkow

Michelle L. McGuirk

Gibson Dunn & Crutcher, L.L.P.; 1050 Conn. Ave. Wash. DC 20036

P.O. Box 369, New York, N.Y. 10113-369

202-955-8668[tolson@gibsondunn.com][abarkow@jenner.com]

(646) 662-5241; [michelle_mcguirk@yahoo.com]

Jenner & Block, 919 Third Ave., N.Y., N.Y. 10022 (212)891-1600

Court-Judge/Agency appealed from: U.S. District Court, S.D.N.Y., Hon. Richard M. Berman, Case 15-cv-5916

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes ☐ No (explain): Pro Se Party was not served by Mr. Delinsky

Opposing counsel's position on motion:

☐ Unopposed ☐ Opposed ☒ Don't Know

Does opposing counsel intend to file a response:

☐ Yes ☐ No ☒ Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes ☐ No

Has this relief been previously sought in this Court?

☐ Yes ☐ No

Requested return date and explanation of emergency:

Is oral argument on motion requested?

☐ Yes ☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☒ Yes ☐ No If yes, enter date: Lead case 15-2801 held on Mar. 3, 2016

Signature of Moving Attorney:

Michelle L. McGuirk

Date: June 22, 2016

Service by: ☐ CM/ECF ☒ Other [Attach proof of service]

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket #15-3228 CV (CON)

-----x
NATIONAL FOOTBALL LEAGUE
MANAGEMENT COUNCIL,

Plaintiff-Counter-Defendant-Appellee,

- v. -

NATIONAL FOOTBALL LEAGUE PLAYERS
ASSOCIATION, on its own behalf and Tom Brady
Defendant-Counter-claimant

TOM BRADY, Counter-claimant

MICHELLE L. MCGUIRK, Appellant
-----x

MOTION to STRIKE
JENNER BLOCK
APPEARANCE

Related: 15-2801 cv (L)
15-2805 cv (CON)

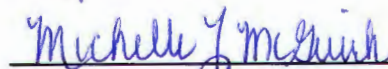
PLEASE TAKE NOTICE that upon the Affidavit of Michelle L. McGuirk, *pro se* Appellant, sworn to June 20, 2016 and all prior pleadings, I hereby move for Order of the U.S. Court of Appeals for the Second Circuit located at Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, N.Y. 10007 to strike the proposed appearance of attorney Anthony S. Barkow entered May 31, 2016 in case 15-3228 (Docket#147) and lead 15-2801 (Docket#284). Such relief is for good cause for alleged pattern of disobeying Local Rules and Fed.R.App.Pr., untimely filings and an alleged admission date to this Court that is unsupported by verifiable proof.

Motion is made per Fed.R.App.Pr.26(c), though counsel failed to serve me in any form, with responsive pleadings due timely per Fed.R.App.Pr.27(a)(3)(A). My May 9, 2016 Petition for Panel Rehearing and Rehearing *En Banc* is pending.

Dated: June 22, 2016

New York, New York

Respectfully Submitted,



Michelle L. McGuirk, Appellant, *Pro Se*
P.O.Box 369, New York, N.Y. 10113-369

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Plaintiff-Counter-Defendant-Appellee,

- v. -

NATIONAL FOOTBALL LEAGUE PLAYERS
ASSOCIATION, on its own behalf and Tom Brady
Defendant-Counter-claimant

AFFIDAVIT in SUPPORT:
MOTION TO STRIKE
JENNER & BLOCK
APPEARANCE

Related Cases: 15-2801 cv (L)
15-2805 cv (Cons)

TOM BRADY, Counter-claimant

MICHELLE L. MCGUIRK, Appellant

-----x
STATE OF NEW YORK, COUNTY OF NEW YORK ss:

I, Michelle L. McGuirk, Appellant of full age, declare under penalty of perjury the following is true or to the best of my knowledge if based on information and belief:

1. I filed a Motion to Intervene [JA11,Dkt#84] per Fed.R.Civ.Pr.60 in District Court 15-cv-5916 seeking relief for alleged fraud-on-the-court, with relief denied Sept. 9, 2015 by Hon. Berman and timely appealed on Oct. 14, 2015 [Dkt#1].

2. I filed Appellant's Brief on Nov. 23, 2015 (15-2801:Dkt#120). Winston & Strawn, L.L.P. filed answering brief for NFLPA and Tom Brady on Dec. 7, 2015 (Dkt#63). Bancroft PLLC filed NFLMC's reply brief on Dec. 21, 2015 (Dkt#70).

3. Case 15-2801 as NFLMC v. NFLPA was argued Mar. 3, 2016. On Apr. 25, 2016, a Summary Order affirmed denying my appeal (Dkt#118;15-2801,Dkt238).

4. I filed a Memo of Law in Support of Petition for Panel Rehearing and Rehearing *En Banc* on May 9, 2016 (Dkt#123); Citations, Rules, Laws and Statutes on May 16, 2016 (Dkt#136) and motion for leave to file on May 27, 2016 (Dkt#158).

5. Gibson Dunn & Crutcher, L.L.P. ("GD") sought added time to consider filing for rehearing (15-2801:Dkt#250) that was granted May 3, 2016 (Dkt.#257). On May 23, 2016, a Petition for Rehearing or Rehearing *En Banc* (Dkt#130;#265) was filed, after which *amicus* briefs were submitted on behalf of NFLPA and Tom Brady.

6. On May 31, 2016, Anthony S. Barkow of Jenner & Block ("J&B"), filed Notice to Appear stating admittance on Mar. 7, 2016 (Dkt#147;15-2801:Dkt#284), requiring knowledge/compliance with Federal, Local and Professional conduct rules.

7. Notice in ¶6 allegedly evades compliance as it: i) defies Fed.R. App.Pr. 29(e) by failing to file for leave despite six months overdue; ii) adds *amicus* party per Fed.R.App.Pr. 29(b) despite no fees paid; iii) omits case 15-3228; iv) fails to properly name his law firm; v) fails to identify Appellees; vi) states admission date that lacks available proof; vii) lacks authentic signature; and viii) was certified without oath and defies Local Rule 25.1(h)(4) with no service by mail to me.

8. Mr. Barkow seeks to late-file *amicus curiae* brief for lawyer who could file himself after allegedly following the U.S. District Court case. To my knowledge, this Court is not a smorgasbord for lawyers to pick-n-choose *when* or *how* they file.

9. Mr. Barkow's Massachusetts license is dated July 1, 1996 (inactive), Feb. 6, 1998 in the District of Columbia and 2009 in New York (#4745220)(active).

10. Mr. Barkow's prior notice to appear as *amicus* in case 13-2025, *Ermini v. Vittori* listed firm "Jenner & Block, LLP" and Apr. 26, 2011 admittance (Dkt#143) on appeal of case 12-cv-6100. He appeared in District Court for the U.S. Attorney's Office such as 03-1200 *U.S. v. Sagat* (Hon. Sotomayer) and 06-5015 *U.S. v. Stewart*.

11. Mr. Barkow filed *amicus* brief in case 12-cr-973, *U.S. v. Martoma* for U. of Michigan after letter for a rushed, hand-written Order on the last day to file (Dkt#82) despite Order to file one month earlier and his failing to seek to intervene.

12. Mr. Barkow also appeared in 15-2559, *FHFA, et.al. v. WMC Mortgage, L.L.C.* for defendant on appeal of District Court, S.D.N.Y. case 13-584. Mr. Barkow removed #654522/2012 from Supreme Court of New York despite summons of Dec. 27, 2013 not served (Dkt#1), claiming sufficiency of filings on Jan. 25, 2014 (Dkt#2).

13. J&B is foreign entity registered in New York with ID#3261950 granted Sept. 28, 2005. Illinois-domiciled Jenner & Block, L.L.C. (ID#00495301) was merged Nov. 25, 2003 to its current name effective Dec. 1, 2013, with current ID#000923.

14. Mr. Barkow was Executive Director of the Center on Administration of Criminal Law at N.Y.U. (the "Center") in 2008-12 when his marital partner was its Director and N.Y.U. professor, filing *amicus* briefs in this Court (09-4738,11-324).

15. During employ in ¶14, Mr. Barkow apparently testified on Nov. 19, 2009 at the U.S. House of Representatives Subcommittee on Commercial and Administrative Law on "Transparency and Interest in Corporate Monitoring" related to the revolving door of government employees to the private sector and "self-dealing", stating acts "for personal advantage is corrupt and criminal".

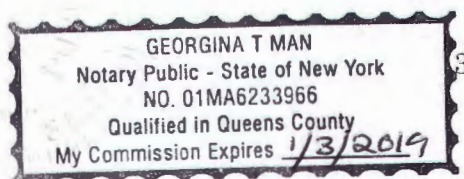
16. Responses are due within ten days of service per F.R.A.P. 27(a)(3)(B).

Sworn to before me this 20 day of
JUNE, 2016.

Notary Public

Dated: June 20, 2016

Michelle L. McGuirk
Michelle L. McGuirk Appellant *Pro Se*
P.O. Box 369, New York, NY 10113-369



UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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**AFFIDAVIT
OF SERVICE**

Related: 15-2801 cv (L)
15-2805 cv (Cons)

TOM BRADY, Counter-claimant

MICHELLE L. MCGUIRK, Appellant
-----x

STATE OF NEW YORK, COUNTY OF NEW YORK ss:

I, Michelle L. McGuirk, Appellant, of full age, declare under penalty of perjury on
June 22, 2016, a copy of i) Notice of Motion; ii) Form T-1080; iii) Affidavit in
Support: Motion to Strike Jenner & Block Appearance was served by priority mail
in a postage-paid envelope under the exclusive custody of the U.S. Postal Service to:

Daniel L. Nash - Attorneys for NFLMC c/o Akin, Gump, Strauss, Hauer & Feld, LLP 1333 New Hampshire Avenue, NW Washington, DC 20036	Jeffrey L. Kessler - Attorneys for NFLPA c/o Winston & Strawn, LLP 200 Park Avenue New York, N.Y. 10166
Theodore B. Olson - Attorney for NFLPA Andrew S. Tulumello - Atty. for Tom Brady c/o Gibson, Dunn & Crutcher, LLP 1050 Connecticut Avenue, NW Washington, DC 20036-5303	Gregg H. Levy - Attys. for Roger Goodell c/o Covington & Burling, LLP One CityCenter, 850 Tenth Street, NW Washington, DC 20001-4956
Paul D. Clement - Attorneys for NFLMC c/o Bancroft PLLC 500 New Jersey Avenue NW, Suite 700 Washington DC 20001	Anthony S. Barkow - Atty. for Alleged Amicus Jenner & Block, L.L.P. 919 Third Avenue New York, N.Y. 10022

Sworn to before me this 22 day of
June, 2016.

Maxine White

Notary Public

Dated: June 22nd, 2016

Michelle L. McGuirk

Michelle L. McGuirk, Appellant Pro Se
P.O. Box 369, New York, NY 10113-369

